18 **S.B. CIVIL MISC. APPEAL NO.680/2007.**
Bhikha Ram & Ors. Vs. Sahab Singh & Ors.

Date of Order :: 13th February 2007.

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. K.R. Choudhary, for the appellants.

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For awarding compensation to the wife, minor daughters and parents of the vehicular accident victim Babu Lal, said to be 25 years in age and engaged in dyeing & printing job with one M/s. Matumbi Textiles, Balotra, the Tribunal has not accepted the assertion of the claimants about the monthly earning of the deceased at Rs.3,000/- for want of any cogent documentary evidence and has considered it appropriate to estimate his income at Rs.2,100/- per month; and after deducting one-third therefrom on personal expenditure of the deceased and with application of multiplier of 18, has assessed pecuniary loss for the claimants at Rs.3,02,400/-; and after allowing Rs.5,000/- towards loss of love and affection and Rs.2,000/- towards funeral expenses, has awarded total compensation in the sum of Rs.3,09,400/-; and has allowed interest @ 6% per annum from the date of filing of the claim application after adjustment of the amount of interim award. The award so made by the Tribunal is assailed in this appeal as being too low and inadequate.

Learned counsel Mr. K.R. Choudhary appearing for the claimant-appellants has strenuously contended that the Tribunal has been in error in taking only a sum of Rs.24,000/- per annum towards multiplicand without considering that in view of the family set-up, the assertion of the claimants about the income of the deceased could not have been disbelieved. Learned counsel has also relied upon a decision of this Court in the case of Munni Vs. The Oriental Assurance Company : 2005 WLC (UC) 656 to submit that the Tribunal has been in error in not awarding reasonable amount towards loss of love and affection and loss of consortium to the claimants.

Having given a thoughtful consideration to the submissions made on behalf of the claimant-appellants and having examined the award impugned in its totality, this Court is of opinion that the amount of compensation as awarded by the Tribunal in this case in the sum of Rs.3,09,400/-, though moderate, cannot be said to be too low or grossly inadequate so as to warrant interference in appeal.

True it is that the claimants asserted the income of the deceased at Rs.3,000/- per month but for want of any other cogent evidence, the Tribunal cannot be faulted with in putting an estimate on the income of the deceased at Rs.2,100/- per month. The Tribunal has proceeded to assess pecuniary loss with application of maximum side multiplier of

18 at Rs.3,02,400/-. Though the submissions of the learned counsel for the appellants about the amount of non-pecuniary loss being too low may not be rejected outright but cannot be accepted either because with substantial amount assessed towards pecuniary loss, the ultimate award amount of Rs.3,09,400/- arrived at by the Tribunal cannot be said to be falling too short of just compensation admissible in this case.

Further, it is true that in the case of Munni (supra), this Court has allowed Rs.1,00,000/- as non-pecuniary loss to the wife, children and parents of the deceased but then noticeable it is that in the said case, pecuniary loss was allowed by the Tribunal at Rs.2,30,400/- for accidental death of 40 years old person. Other facts and factors are not available in the said decision but in view of the quantum of total compensation, this Court is of opinion that the propositions adopted in the case of Munni (supra) cannot ipso facto be applied to the facts of the present case.

The appeal fails and is, therefore, dismissed summarily.

(DINESH MAHESHWARI), J.

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